

Remarks

I. Introduction

Claims 47 and 59 have been amended. Claims 13-41 and 53-58 have been withdrawn. Claims 1-12 and 42-46 have been cancelled. Claims 48-52 are also in the case. Reconsideration of this application in light of the following further remarks is respectfully requested.

II. The Rejection of claims 47-50

Claims 47-50 have been rejected under 35 U.S.C. § 102 as anticipated by Sinanan U.S. patent 6,173,715 (hereinafter "Sinanan"). This rejection is respectfully traversed in view of the amendment that has been made to claim 47.

Claim 47 now states that the member that is used for securing the magnetic device to a surface of tissue in the patient is of fixed length and is configured to movably enter an aperture in the magnetic device. Support for this can be found, for example, in applicants' FIGS. 42-49 and the associated description of those FIGS. Sinanan does not show anything like this. For example, Sinanan's implant structure has no parts that are movable relative to one another. Claim 47 and its dependent claims 48-52 are therefore not anticipated by Sinanan.

Although Raimondi et al. U.S. patent 3,495,620 (hereinafter "Raimondi") was not cited against claim 47, applicants would like to point out that claim 47 is also not anticipated by Raimondi because any Raimondi structure that may be used to secure any of Raimondi's magnetic devices in a patient is outside those magnetic devices. Raimondi does not show any securing member movably entering an aperture in a magnetic device.

The foregoing demonstrates that claims 47-52 are allowable.

### III. The Rejection of Claim 59

Claim 59 has been rejected under 35 U.S.C. § 102 as anticipated by Raimondi. This rejection is respectfully traversed in view of the amendment that has been made to claim 59.

Claim 59 has been amended to specify that at least one of the magnetic devices is movable relative to the longitudinal member as a result of a portion of a length of the longitudinal member movably entering an aperture in that magnetic device. Nothing like this is shown in Raimondi.

The structure that keeps Raimondi's magnets together is all outside of those magnets. No member that extends between Raimondi's magnets movably enters an aperture in those magnets. Raimondi's structure is therefore entirely different from what applicants define in claim 59. This difference is reflective of a fundamental difference in purpose of Raimondi, on the one hand, and applicants, on the other hand. Raimondi provides magnets solely for direct control of fluid flow through a conduit that Raimondi provides. Raimondi's magnets are therefore confined inside of that conduit. In contrast, applicants want their structure to be able to operate on adjacent tissue. Applicants are not trying to control fluid flow directly, but only indirectly by operating on tissue, which in turn controls fluid flow through a tissue conduit. The objectives of Raimondi and applicants are therefore fundamentally different, and the structure specified by applicants in claim 59 is correspondingly different from what Raimondi shows. Claim 59 is not anticipated by Raimondi.

IV. Conclusion

The foregoing demonstrates that claims 47-52 and 59 are allowable. All other claims have either been cancelled or withdrawn. This application is therefore in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,



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